

BEFORE THE DEPARTMENT OF INSURANCE  
STATE OF NEBRASKA

MAR 22 2005

FILED

STATE OF NEBRASKA	)	
DEPARTMENT OF INSURANCE,	)	
	)	
PETITIONER,	)	CONSENT ORDER
	)	
VS.	)	
	)	
UNITED HEALTHCARE INSURANCE	)	CAUSE NO. C-1508
COMPANY,	)	
	)	
RESPONDENT.	)	

In order to resolve this matter, the Nebraska Department of Insurance ("Department"), by and through its representative, Martin W. Swanson and United Healthcare Insurance Company, ("Respondent"), mutually stipulate and agree as follows:

JURISDICTION

1. The Department has jurisdiction over the subject matter and Respondent pursuant to Neb. Rev. Stat. §44-101.01, §44-303 and §44-4047, et seq.
2. Respondent was licensed as an insurance company under the laws of Nebraska at all times material hereto.

STIPULATIONS OF FACT

1. The Department initiated this administrative proceeding by filing a petition styled State of Nebraska Department of Insurance vs. United Healthcare Insurance Company, Cause Number C-1508 on February 8, 2005. A copy of the petition was served upon the Respondent, at the Respondent's address registered with the Department by certified mail, return receipt requested.

2. The Petition alleges that Respondent violated Neb. Rev. Stat. §§44-1540(3), 44-1540(4), 44-1540(8), 44-1540(13), 44-1539 and 61 NAC §§006.03, 008.02, 008.03, as a result of the following conduct:

- a. On June 21, 2002, Terry Duermyer (Terry) sought medical treatment from his physician, Dr. Stephen M. Titus. On that date, Dr. Titus was a contracted physician with Respondent via his clinic at that time, Physicians Clinic with a tax identification number of 470687317. Terry saw Dr. Titus at Physicians Clinic.
- b. After June 21, 2002, Dr. Titus moved his practice to Primary Care Physicians. While there, a claim was filed on behalf of Terry using the new tax identification number, namely 753046400, for the services rendered in June. The new tax identification number was not effective until July 1, 2002 and Dr. Titus' office erred in filing the claim under the new number.
- c. On November 21, 2002, Respondent claims that it received its first documented phone call from Therese Duermyer, (Therese) Terry's wife. Respondent informed Therese that the claim was filed under an out of network tax identification number and therefore was applied to the Duermyer's out of network benefits. On that same day, Lisa from Dr. Titus' office contacted Respondent about the status of the claim. According to Dr. Titus' notes, Respondent was to "redo" the claim and allow 10-14 days to reprocess the claim. In response, Respondent performed a provider search and found that Dr. Titus was, in fact, an in-network provider under tax identification number 470687317. Respondent sent the claim back for readjustment. Respondent reviewed the claim and upheld the original payment to the out-of-network benefits because Dr. Titus' office filed under the new tax id.
- d. On December 30, 2002, Dr. Titus's internal notes indicate a discussion with Respondent. Vicki Vollmuth of Primary Care Physicians contacted Respondent and Respondent assured Dr. Titus that the claim would be reprocessed with the correct tax identification number and that Dr. Titus should receive payment within 10-15 days. Respondent generated an internal project to capture and pay all of the claims for Dr. Titus for various members that were paid at the out-of-network benefit level. Respondent's phone logs indicated that they were aware of the problem and that the provider had switched tax identification numbers and the old tax identification should have been used. The notes further indicate that

the issue had been going back and forth and should be resolved and that the "claim requires adjustment." Dr. Titus did not receive a payment.

- e. On January 28, 2003, Vicki Vollmuth (Vollmuth) from Dr. Titus' office contacted Respondent. Vicki was advised that the new tax identification number was not in effect for the date of service and that it should have been billed under the old tax identification number. Respondent's internal logs denote that "Flag needs to be removed from the old tax identification number. Claim requires adjustment status-closed. Call back promised."
- f. On March 26, 2003, Vollmuth of Primary Care Physicians called Respondent and told them that the claims had yet to be processed correctly. Respondent sent the claim back for adjustment. Respondent did not pay the claim under the in-network agreement provisions.
- g. On April 8, 2003, Therese contacted Respondent. Respondent told Therese that the claim would be sent back for reprocessing to pay under the correct participating provider number. Subsequently, Respondent determined that the claim was paid correctly because the contract was not effective until July 1, 2002 under the new tax identification number.
- h. On July 29, 2003, Vollmuth of Primary Care Physicians contacted Respondent and asked that the claim be reprocessed under Dr. Titus' in-network provider number. Respondent determined that no adjustment was necessary because Dr. Titus was not contracted until July 1, 2002. Vollmuth was also told that an appeal would need to be filed.
- i. On August 18, 2003, Kristi Hansen, network account manager for Dr. Titus, sent a request to Respondent to reprocess the corrected claim under the old tax identification number. On that same day, Vollmuth contacted Respondent and was told that the corrected claim was being "filmed" and was going to be reprocessed.
- j. On August 19, 2003, Therese contacted Respondent and requested a supervisor. After some discussion, the claim was sent back for adjustment. Dr. Titus' contract was flagged to refer to the current tax identification number problem. Respondent's internal notes recognize that the claim was sent back numerous times and was still paid incorrectly because the old tax id number had expired at that date and the computer system would not allow the option of reprocessing the claim under the old tax identification number. They were to contact Therese with the outcome of the matter. Respondent failed to call Therese back with any explanation despite the request for a return phone call.

- k. On August 20, 2003, Respondent determined that the tax identification number was inactive and that they were unable to process the claim under the old tax identification number. According to Respondent's internal notes, they were unable to process the claim because the "system will not allow us to have this option."
- l. On August 22, 2003, Therese contacted Respondent and was told there was a "set up problem." Respondent advised her of her right to appeal but Respondent's internal notes disclosed that "...we cannot get a flagged provider claim reprocessed for her here."
- m. On August 27, 2003, Terry called Respondent and provided additional claim information. That same day Therese also contacted Respondent and was told that the claim was not paid per the in-network rates but that they could appeal the decision. At this time, Therese requested a call back from Respondent. Respondent failed to call her back despite the request.
- n. On September 22, 2003, the Duermyers filed a complaint with the Nebraska Department of Insurance. On September 23, 2003, Therese contacted Respondent again and the claim was still not paid per the in-network rates.
- o. In a letter to the Nebraska Department of Insurance, dated September 29, 2003, Respondent apologized that the issues raised by the Duermyers were not resolved earlier and that the phone calls placed by the Duermyers were not returned. In the letter, Respondent asserted that an adjustment had been made and the system would be corrected. A follow up letter was to be provided once the claim-processing details become available. The letter was not received by the Nebraska Department of Insurance.
- p. On October 6, 2003, Dr. Titus' office received a letter in response to their inquiry of September 29, 2003. In there letter Respondent informed Dr. Titus that it had processed the claim correctly and that the appeal was received after the appeal deadline. In an additional letter dated October 7, 2003 received by Dr. Titus, Respondent reiterated the claims in the October 6, 2003 letter but also denoted that the claim was denied because "the patient received services from a physician or other health care provider who was not in the network."
- q. On October 9, 2003, Respondent sent an Explanation of Benefits to Terry which stated that the Duermyers would have to pay the out-of network amount. This was followed up with an October 17, 2003 letter in which Respondent denied the claim because "The patient received services from a physician or other health care provider who was not in the network."

Prior to this, on October 16, 2003, Respondent requested a new bill from Dr. Titus.

- r. On June 19, 2004, Respondent once again admitted that as of the respective date of service, Dr. Titus was a contracted physician as an employee of Physician's Clinic of Omaha. Physician's Clinic was contracted with Respondent for its employees to render service to Respondent's insureds. This was subsequently confirmed again in a letter from Respondent on October 21, 2004.
- s. In the June 19, 2004 letter Respondent also stated that the "claim would have been processed immediately as "in-network" if Dr. Titus had rendered services at Physician's Clinic". In a letter from the Duermeyers of November 9, 2004, they confirmed that Terry did, in fact, see Dr. Titus at Physician's Clinic in June of 2002.
- t. In the June 19, 2004 letter, Respondent admitted that the claim was processed out-of network and that they apparently could not manually process the claim. According to the letter, the claim was eventually paid at the in-network rate but this information was never shared with the Nebraska Department of Insurance. Respondent also asserted in the letter that the system processed the claim correctly and that no correction to the system was necessary.
- u. Respondent also admitted in the June 19, 2004 letter that phone calls made by the Duermeyers were not returned and that it was an oversight by Respondent. Additionally, Respondent was unable to determine why the Duermeyers were not mailed a letter regarding the status of the claim and that "it appeared to be an oversight."

3. Respondent was informed of the right to a public hearing. Respondent waives that right, and enters into this Consent Order freely and voluntarily. Respondent understands and acknowledges that by waiving its right to a public hearing, Respondent also waives its right to confrontation of witnesses, production of evidence, and judicial review.

4. Respondent admits the factual allegations contained in the Petition and restated in Paragraph #2 above. However, Respondent does not admit to a violation of law and maintains that the existence of a violation is in dispute.

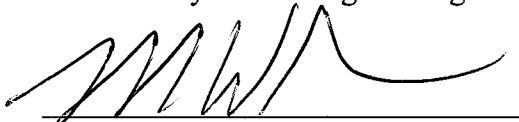
### CONCLUSIONS OF LAW

The conduct of United Healthcare Insurance Company, as alleged above, constitutes a violation of Neb. Rev. Stat. §§44-1540(3), 44-1540(4), 44-1540(8), 44-1540(13), 44-1539 and 61 NAC §§006.03, 008.02, 008.03.

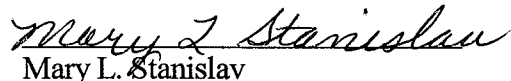
### CONSENT ORDER

It is therefore ordered by the Director of Insurance and agreed to by Respondent, that Respondent shall pay an administrative fine in the amount of \$10,000.00 dollars. The Respondent has thirty days from the date of approval of this consent order by the Nebraska Director of Insurance to pay the \$10,000.00 dollar fine. The Nebraska Department of Insurance shall retain jurisdiction of this matter for the purpose of enabling the Department to make application for such further orders as may be necessary.

In witness of their intention to be bound by this Consent Order, each party has executed this document by subscribing their signatures below.



Martin W. Swanson, #20795  
Department of Insurance  
941 "O" Street, Suite 400  
Lincoln, Nebraska 68508  
(402) 471-2201



Mary L. Stanislav  
United Healthcare Insurance Company

March 18, 2005  
Date

23 MARCH 2005  
Date

State of Minnesota )  
 ) ss.  
County of Hennepin )

On this 18<sup>th</sup> day of March, 2005, United Healthcare Insurance Company personally appeared before me and read this Consent Order, executed the same and acknowledged the same to be his voluntary act and deed.



Jennifer L. Bergman  
Notary Public

I hereby certify that the foregoing Consent Order is adopted as the Final Order of the Nebraska Department of Insurance in the matter of State of Nebraska Department of Insurance vs. United Healthcare Insurance Company, Cause No. C-1508.

STATE OF NEBRASKA  
DEPARTMENT OF INSURANCE

L. Tim Wagner

L. TIM WAGNER  
Director of Insurance

3/22/05

Date

CERTIFICATE OF SERVICE

I hereby certify that a copy of the executed Consent Order was sent to Respondent's Counsel, Mary L. Stanislav at Mail Stop MN 012-S205, 5901 Lincoln Drive, Edina, MN 55436, by certified mail, return receipt requested on this 24<sup>th</sup> day of March, 2005.

Karega A. Gunn